

103RD CONGRESS
2^D SESSION

H. R. 4653

AMENDMENT

In the Senate of the United States,

October 3 (legislative day, September 12), 1994.

Resolved, That the bill from the House of Representatives (H.R. 4653) entitled “An Act to settle Indian land claims within the State of Connecticut, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Mohegan Nation of Con-*
3 *necticut Land Claims Settlement Act of 1994”.*

4 ***SEC. 2. FINDINGS AND PURPOSES.***

5 *(a) FINDINGS.—Congress finds the following:*

6 *(1) The Mohegan Tribe of Indians of Connecticut*
7 *received recognition by the United States pursuant to*
8 *the administrative process under part 83 of title 25*
9 *of the Code of Federal Regulations.*

1 (2) *The Mohegan Tribe of Indians of Connecticut*
2 *is the successor in interest to the aboriginal entity*
3 *known as the Mohegan Indian Tribe.*

4 (3) *The Mohegan Tribe has existed in the geo-*
5 *graphic area that is currently the State of Connecti-*
6 *cut for a long period preceding the colonial period of*
7 *the history of the United States.*

8 (4) *Certain lands were sequestered as tribal*
9 *lands by the Colony of Connecticut and subsequently*
10 *by the State of Connecticut.*

11 (5) *The Mohegan Tribe of Indians of Connecticut*
12 *v. State of Connecticut, et al. (Civil Action No. H-*
13 *77-434, pending before the United States District*
14 *Court for the Southern District of Connecticut) relates*
15 *to the ownership of certain lands within the State of*
16 *Connecticut.*

17 (6) *Such action will likely result in economic*
18 *hardships for residents of the State of Connecticut, in-*
19 *cluding residents of the town of Montville, Connecti-*
20 *cut, by encumbering the title to lands in the State, in-*
21 *cluding lands that are not currently the subject of the*
22 *action.*

23 (7) *The State of Connecticut and the Mohegan*
24 *Tribe have executed agreements for the purposes of re-*
25 *solving all disputes between the State of Connecticut*

1 *and the Mohegan Tribe and providing a settlement*
2 *for the action referred to in paragraph (5).*

3 *(8) In order to implement the agreements re-*
4 *ferred to in paragraphs (5) and (6) of section 3 that*
5 *address matters of jurisdiction with respect to certain*
6 *offenses committed by and against members of the*
7 *Mohegan Tribe and other Indians in Indian country*
8 *and matters of gaming-related development, it is nec-*
9 *essary for the Congress to enact legislation.*

10 *(9) The town of Montville, Connecticut, will—*

11 *(A) be affected by the loss of a tax base*
12 *from, and jurisdiction over, lands that will be*
13 *held in trust by the United States on behalf of*
14 *the Mohegan Tribe; and*

15 *(B) serve as the host community for the*
16 *gaming operations of the Mohegan Tribe.*

17 *(10) The town of Montville and the Mohegan*
18 *Tribe have entered into an agreement to resolve issues*
19 *extant between them and to establish the basis for a*
20 *cooperative government-to-government relationship.*

21 *(b) PURPOSES.—The purposes of this Act are as fol-*
22 *lows:*

23 *(1) To facilitate the settlement of claims against*
24 *the State of Connecticut by the Mohegan Tribe.*

1 (2) *To facilitate the removal of any encumbrance*
2 *to any title to land in the State of Connecticut that*
3 *would have resulted from the action referred to in*
4 *subsection (a).*

5 **SEC. 3. DEFINITIONS.**

6 *As used in this Act:*

7 (1) *LANDS OR NATURAL RESOURCES.*—*The term*
8 *“lands or natural resources” means any real property*
9 *or natural resources, or any interest in or right in-*
10 *volving any real property or natural resources, in-*
11 *cluding any right or interest in minerals, timber, or*
12 *water, and any hunting or fishing rights.*

13 (2) *MOHEGAN TRIBE.*—*The term “Mohegan*
14 *Tribe” means the Mohegan Tribe of Indians of Con-*
15 *necticut, a tribe of American Indians recognized by*
16 *the United States pursuant to part 83 of title 25,*
17 *Code of Federal Regulations, and the State of Con-*
18 *necticut pursuant to section 47-59a(b) of the Con-*
19 *necticut General Statutes.*

20 (3) *SECRETARY.*—*The term “Secretary” means*
21 *the Secretary of the Interior.*

22 (4) *STATE.*—*The term “State” means the State*
23 *of Connecticut.*

24 (5) *STATE AGREEMENT.*—*The term “State Agree-*
25 *ment” means the Agreement between the Mohegan*

1 *Tribe and the State of Connecticut, executed on May*
2 *17, 1994, by the Governor of the State of Connecticut*
3 *and the Chief of the Mohegan Tribe, that was filed*
4 *with the Secretary of State of the State of Connecti-*
5 *cut.*

6 (6) *TOWN AGREEMENT.*—*The term “Town Agree-*
7 *ment” means the agreement executed on June 16,*
8 *1994, by the Mayor of the town of Montville and the*
9 *Chief of the Mohegan Tribe.*

10 (7) *TRANSFER.*—*The term “transfer” includes*
11 *any sale, grant, lease, allotment, partition, or convey-*
12 *ance, any transaction the purpose of which is to effect*
13 *a sale, grant, lease, allotment, partition, or convey-*
14 *ance, or any event that results in a change of posses-*
15 *sion or control of land or natural resources.*

16 **SEC. 4. ACTION BY SECRETARY.**

17 (a) *IN GENERAL.*—*The Secretary is authorized to*
18 *carry out the duties specified in subsection (b) at such time*
19 *as the Secretary makes a determination that—*

20 (1) *in accordance with the Indian Gaming Reg-*
21 *ulatory Act (25 U.S.C. 2701 et seq.), the State of Con-*
22 *necticut has entered into a binding compact with the*
23 *Mohegan Tribe providing for class III tribal gaming*
24 *operations (as defined in section 4(8) of such Act (25*
25 *U.S.C. 2703(8)));*

1 (2) *the compact has been approved by the Sec-*
2 *retary pursuant to section 11(d)(8) of such Act (25*
3 *U.S.C. 2710(d)(8)); and*

4 (3) *pursuant to transfers carried out pursuant to*
5 *the State Agreement, the United States holds title to*
6 *lands described in exhibit B of the State Agreement*
7 *in trust for the Mohegan Tribe to be used as the ini-*
8 *tial Indian reservation of the Mohegan Tribe.*

9 (b) *PUBLICATION BY SECRETARY.—If the Secretary*
10 *makes a determination under subsection (a) that the condi-*
11 *tions specified in paragraphs (1) through (3) of that sub-*
12 *section have been met, the Secretary shall publish the deter-*
13 *mination, together with the State Agreement, in the Federal*
14 *Register.*

15 (c) *EFFECT OF PUBLICATION.—*

16 (1) *IN GENERAL.—Upon the publication of the*
17 *determination and the State Agreement in the Fed-*
18 *eral Register pursuant to subsection (b), a transfer,*
19 *waiver, release, relinquishment, or other commitment*
20 *made by the Mohegan Tribe in accordance with the*
21 *terms and conditions of the State Agreement shall be*
22 *in full force and effect.*

23 (2) *APPROVAL BY THE UNITED STATES.—(A)*
24 *The United States hereby approves any transfer,*

1 *waiver, release, relinquishment, or other commitment*
2 *carried out pursuant to paragraph (1).*

3 *(B) A transfer made pursuant to paragraph (1)*
4 *shall be deemed to have been made in accordance with*
5 *all provisions of Federal law that specifically apply*
6 *to transfers of lands or natural resources from, by, or*
7 *on behalf of an Indian, Indian nation, or tribe of In-*
8 *dians (including the Act popularly known as the*
9 *“Trade and Intercourse Act of 1790”; section 4 of the*
10 *Act of July 22, 1790 (1 Stat. 137, chapter 33)). The*
11 *approval of the United States made pursuant to sub-*
12 *paragraph (A) shall apply to the transfer beginning*
13 *on the date of the transfer.*

14 *(d) EXTINGUISHMENT OF CLAIMS.—*

15 *(1) IN GENERAL.—Subject to subsections (f)(2)*
16 *and (g), the following claims are hereby extinguished:*

17 *(A) Any claim to land within the State of*
18 *Connecticut based upon aboriginal title by the*
19 *Mohegan Tribe.*

20 *(B) Any other claim that the Mohegan*
21 *Tribe may have with respect to any public or*
22 *private lands or natural resources in Connecti-*
23 *cut, including any claim or right based on recog-*
24 *nized title, including—*

1 (i) any claim that the Mohegan Tribe
2 may have to the tribal sequestered lands
3 bounded out to the Tribe in 1684, consisting
4 of some 20,480 acres lying between the
5 Thames River, New London bounds, Nor-
6 wich bounds, and Colchester bounds;

7 (ii) any claim that the Mohegan Tribe
8 may have based on a survey conducted
9 under the authority of the Connecticut Gen-
10 eral Assembly in 1736 of lands reserved and
11 sequestered by the General Assembly for the
12 sole use and improvement of the Mohegan
13 Indian Tribe; and

14 (iii) any claim that the Mohegan Tribe
15 may have based on any action by the State
16 carried out in 1860 or 1861 or otherwise
17 made by the State to allot, reallocate, or con-
18 firm any lands of the Mohegan Tribe to in-
19 dividual Indians or other persons.

20 (2) APPROVAL BY THE UNITED STATES.—An ex-
21 tinguishment made pursuant to this subsection shall
22 be deemed to have been made in accordance with all
23 provisions of Federal law that specifically apply to
24 transfers of lands or natural resources from, by, or on
25 behalf of an Indian, Indian nation, or tribe of Indi-

1 *ans (including the Act popularly known as the*
2 *“Trade and Intercourse Act of 1790”; section 4 of the*
3 *Act of July 22, 1790 (1 Stat. 137, chapter 33)).*

4 *(e) TRANSFERS.—Subject to subsection (g), any trans-*
5 *fer of lands or natural resources located within the State*
6 *of Connecticut, including any such transfer made pursuant*
7 *to any applicable Federal or State law (including any ap-*
8 *plicable treaty), made by, from, or on behalf of the Mohegan*
9 *Tribe or any predecessor or successor in interest of the Mo-*
10 *hegan Tribe shall be deemed to be in full force and effect,*
11 *as provided in subsection (c)(1).*

12 *(f) LIMITATION.—*

13 *(1) IN GENERAL.—Except as provided in para-*
14 *graph (2) and subject to subsection (g), by virtue of*
15 *the approval by the United States under this section*
16 *of a transfer of land or the extinguishment of aborigi-*
17 *nal title, any claim by the Mohegan Tribe against the*
18 *United States, any State or political subdivision of a*
19 *State, or any other person or entity, by the Mohegan*
20 *Tribe, that—*

21 *(A) arises after the transfer or extinguish-*
22 *ment is carried out; and*

23 *(B) is based on any interest in or right in-*
24 *volving any claim to lands or natural resources*
25 *described in this section, including claims for*

1 *trespass damages or claims for use and occu-*
2 *pancy,*
3 *shall, beginning on the date of the transfer of land or*
4 *the extinguishment of aboriginal title, be considered*
5 *an extinguished claim.*

6 (2) *EXCEPTION.—The limitation under para-*
7 *graph (1) shall not apply to any interest in lands or*
8 *natural resources that is lawfully acquired by the Mo-*
9 *hegan Tribe or a member of the Mohegan Tribe after*
10 *the applicable date specified in paragraph (1).*

11 (g) *STATUTORY CONSTRUCTION.—*

12 (1) *ABORIGINAL INTERESTS.—Nothing in this*
13 *section may be construed to extinguish any aboriginal*
14 *right, title, interest, or claim to lands or natural re-*
15 *sources, to the extent that such right, title, interest, or*
16 *claim is an excepted interest, as defined under section*
17 *1(a) of the State Agreement.*

18 (2) *PERSONAL CLAIMS.—Nothing in this section*
19 *may be construed to offset or eliminate the personal*
20 *claim of any individual Indian if the individual In-*
21 *dian pursues such claim under any law of general*
22 *applicability.*

1 **SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES TO**
2 **BE HELD IN TRUST FOR THE MOHEGAN**
3 **TRIBE.**

4 (a) *IN GENERAL.*—Subject to the environmental re-
5 quirements that apply to land acquisitions covered under
6 part 151 of title 25, Code of Federal Regulations (or any
7 subsequent similar regulation), the Secretary shall take such
8 action as may be necessary to facilitate the conveyance to
9 the United States of title to lands described in exhibits A
10 and B of the State Agreement. Such lands shall be held by
11 the United States in trust for the use and benefit of the
12 Mohegan Tribe as the initial Indian reservation of the Mo-
13 hegan Tribe.

14 (b) *CONSULTATION.*—

15 (1) *IN GENERAL.*—The Secretary shall consult
16 with the appropriate official of the town of Montville
17 concerning any tract of land subject to exhibit B of
18 the State Agreement but not specifically identified in
19 such exhibit with respect to the impact on the town
20 resulting from—

21 (A) the removal of the land from taxation
22 by the town;

23 (B) problems concerning the determination
24 of jurisdiction; and

25 (C) potential land use conflicts.

1 (2) *STATUTORY CONSTRUCTION.*—*Nothing in this*
2 *Act may affect the right of the town of Montville to*
3 *participate, under any applicable law, in decision-*
4 *making processes concerning the acquisition of any*
5 *lands by the Federal Government to be held in trust*
6 *for the Mohegan Tribe.*

7 **SEC. 6. CONSENT OF UNITED STATES TO STATE ASSUMP-**
8 **TION OF CRIMINAL JURISDICTION.**

9 (a) *IN GENERAL.*—*Subject to subsection (b), the con-*
10 *sent of the United States is hereby given to the assumption*
11 *of jurisdiction by the State of Connecticut over criminal*
12 *offenses committed by or against Indians on the reservation*
13 *of the Mohegan Tribe. The State shall have such jurisdiction*
14 *to the same extent as the State has jurisdiction over such*
15 *offenses committed elsewhere within the State. The criminal*
16 *laws of the State shall have the same force within such res-*
17 *ervation and Indian country as such laws have elsewhere*
18 *within the State.*

19 (b) *STATUTORY CONSTRUCTION.*—

20 (1) *EFFECT ON CONCURRENT JURISDICTION OF*
21 *THE MOHEGAN TRIBE.*—*The assumption of criminal*
22 *jurisdiction by the State pursuant to subsection (a)*
23 *shall not affect the concurrent jurisdiction of the Mo-*
24 *hegan Tribe over matters concerning such criminal of-*
25 *fenses.*

1 (2) *STATUTORY CONSTRUCTION.*—*The assump-*
2 *tion of criminal jurisdiction by the State pursuant to*
3 *subsection (a) shall not be construed as a waiver of*
4 *the jurisdiction of the United States under section*
5 *1153 of title 18, United States Code.*

6 **SEC. 7. RATIFICATION OF TOWN AGREEMENT.**

7 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
8 *sion of law, the consent of the United States is hereby given*
9 *to the Town Agreement and the Town Agreement shall be*
10 *in full force and effect.*

11 (b) *APPROVAL OF TOWN AGREEMENT.*—*The Secretary*
12 *shall approve any subsequent amendments made to the*
13 *Town Agreement after the date of enactment of this Act that*
14 *are—*

15 (1) *mutually agreed on by the parties to the*
16 *Town Agreement; and*

17 (2) *consistent with applicable law.*

18 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF OBLIGA-**
19 **TIONS OF STATE OF CONNECTICUT.**

20 *Except as expressly provided in this Act, the State*
21 *Agreement, or the Town Agreement, this Act shall constitute*
22 *a general discharge and release of all obligations of the*
23 *State of Connecticut and the political subdivisions, agen-*
24 *cies, departments, officers, or employees of the State of Con-*
25 *necticut arising from any treaty or agreement with, or on*

1 *behalf of, the Mohegan Tribe or the United States as trustee*
2 *for the Mohegan Tribe.*

3 **SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.**

4 *(a) IN GENERAL.—If, during the 15-year period begin-*
5 *ning on the date on which the Secretary publishes a deter-*
6 *mination pursuant to section 4(b), the State Agreement is*
7 *invalidated by a court of competent jurisdiction, or if the*
8 *gaming compact described in section 4(a)(1) or any agree-*
9 *ment between the State of Connecticut and the Mohegan*
10 *Tribe to implement the compact is invalidated by a court*
11 *of competent jurisdiction—*

12 *(1) the transfers, waivers, releases,*
13 *relinquishments, and other commitments made by the*
14 *Mohegan Tribe under section 1(a) of the State Agree-*
15 *ment shall cease to be of any force or effect;*

16 *(2) section 4 of this Act shall not apply to the*
17 *lands or interests in lands or natural resources of the*
18 *Mohegan Tribe or any of its members, and the title*
19 *to the lands or interests in lands or natural resources*
20 *shall be determined as if such section were never en-*
21 *acted; and*

22 *(3) the approval by the United States of prior*
23 *transfers and the extinguishment of claims and ab-*
24 *original title of the Mohegan Tribe otherwise made*
25 *under section 4 shall be void.*

1 (b) *RIGHT OF MOHEGAN TRIBE TO REINSTATE*
2 *CLAIM.—*

3 (1) *IN GENERAL.—If a State Agreement or com-*
4 *pact or agreement described in subsection (a) is in-*
5 *validated by a court of competent jurisdiction, the*
6 *Mohegan Tribe or its members shall have the right to*
7 *reinstate a claim to lands or interests in lands or*
8 *natural resources to which the Tribe or members are*
9 *entitled as a result of the invalidation, within a rea-*
10 *sonable time, but not later than the later of—*

11 (A) *180 days after the Mohegan Tribe re-*
12 *ceives written notice of such determination of an*
13 *invalidation described in subsection (a); or*

14 (B) *if the determination of the invalidation*
15 *is subject to an appeal, 180 days after the court*
16 *of last resort enters a judgment.*

17 (2) *DEFENSES.—Notwithstanding any other pro-*
18 *vision of law, if a party to an action described in*
19 *paragraph (1) reinstates the action during the period*
20 *described in paragraph (1)(B)—*

21 (A) *no defense, such as laches, statute of*
22 *limitations, law of the case, res judicata, or*
23 *prior disposition may be asserted based on the*
24 *withdrawal of the action and reinstatement of*
25 *the action; and*

1 (B) the substance of any discussions leading
2 to the State Agreement may not be admissible in
3 any subsequent litigation, except that, if any
4 such action is reinstated, any defense that would
5 have been available to the State of Connecticut at
6 the time the action was withdrawn—

7 (i) may be asserted; and

8 (ii) is not waived by anything in the
9 State Agreement or by subsequent events oc-
10 curring between the withdrawal action and
11 commencement of the reinstated action.

12 **SEC. 10. JUDICIAL REVIEW.**

13 (a) *JURISDICTION.*—Notwithstanding any other provi-
14 sion of law, during the period beginning on the date of en-
15 actment of this Act and ending on the date that is 180 days
16 after such date, the United States District Court for the
17 Southern District of Connecticut shall have exclusive juris-
18 diction over any action to contest the constitutionality of
19 this Act or the validity of any agreement entered into under
20 the authority of this Act or approved by this Act.

21 (b) *DEADLINE FOR FILING.*—Effective with the termi-
22 nation of the period specified in subsection (a), no court
23 shall have jurisdiction over any action to contest the con-
24 stitutionality of this Act or the validity of any agreement
25 entered into under the authority of this Act or approved

- 1 *by this Act, unless such action was filed prior to the date*
- 2 *of termination of the period specified in subsection (a).*

Attest:

Secretary.

HR 4653 EAS—2

HR 4653 EAS—3

HR 4653 EAS—4

HR 4653 EAS—5